

ORIGINAL

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JAVIER CESARIO and FERNANDO MARTINEZ,

Plaintiffs,

07 Civ. 8545 (LLS) (GWG)

v.

ORDER

BNI CONSTRUCTION, INC.,  
MIKIAL ABDUR-RAHIM, and  
MUSA LAST NAME UNKNOWN,

Defendants.  
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This matter having been referred to Magistrate Judge Gorenstein to hold an inquest and report and recommend the proper amount of damages, and Magistrate Judge Gorenstein having issued his Report and Recommendation on December 15, 2008 (as amended by his Orders dated December 16 and 24, 2008) in which he recommends entry of a judgment in plaintiffs' favor and against defendants awarding \$40,207.86 to plaintiff Cesario (see Report at pp. 18-20), \$41,270.37 to plaintiff Martinez (see id.) and specified prejudgment interest to each of them (see id.), and no objections thereto having been received, and the time for objecting having expired; and

Having found after a careful review of the Report that there is no clear error on the face of the record, see Adee Motor Cars, LLC v. Amato, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005); it is

ORDERED, that Magistrate Judge Gorenstein's Report and Recommendation is adopted in all respects and the Clerk is directed to enter a judgment in plaintiffs' favor and against defendants in accordance with the Report and Recommendation awarding:

(1) plaintiff Cesario \$40,207.86 plus prejudgment interest of (a) \$1.18 per day from September 1, 2006 through the date of entry of judgment for his unpaid overtime claim under state law, (b) \$2.06 per day from October 10, 2006 through the date of entry of judgment for his unpaid wages and "spread of hours" claims under state law, and (c) \$0.61 per day from December 9, 2006 through the date of entry of judgment or his unpaid wages claim under state law; and

(2) plaintiff Martinez \$41,270.37 plus prejudgment interest of (a) \$1.18 per day from September 1, 2006 through the date of entry of judgment for his unpaid overtime claim under state law, (b) \$2.27 per day from October 10, 2006 through the date of entry of judgment for his unpaid wages and "spread of hours" claims under state law, and (c) \$0.61 per day from December 9, 2006 through the date of entry of judgment for his unpaid wages claim under state law.

So ordered.

Dated: February 19, 2009  
New York, New York

Louis L. Stanton  
Louis L. Stanton  
U.S.D.J.